

### **REMARKS**

In the Office Action, the Examiner rejected claims 75-87 and 95-98 under 35 U.S.C. § 102(b) and withdrew from consideration claims 88-94. Claims 1-74 were previously cancelled from the present application. By this paper, the Applicants amended claims 75, 83, and 95, and added new claims 99-101 to clarify certain claim features. In view of the foregoing amendments and the following remarks, Applicants respectfully request allowance of the pending claims 75-87 and 95-101.

### **Election/Restriction**

In the Office Action, the Examiner withdrew claims 88-94 as being drawn to nonelected species in Fig. 12. The Applicants respectfully traverse. Independent claim 88 is clearly generic to all species set forth in the restriction requirement mailed on July 24, 2003. Independent claim 88 is not limited to the species of Fig. 12. Similarly, dependent claims 90-94 are generic to all species set forth in the previous restriction requirement. For these reasons, the Applicants respectfully request that the Examiner reinstate and examine these claims.

### **Claim Rejections under 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 75-87 and 95-98 under 35 U.S.C. § 102(b) as anticipated by Hwang (U.S. Patent No. 5,842,394, hereinafter "Hwang"). Applicants respectfully traverse this rejection.

### **Legal Precedent**

First, the pending claims must be given an interpretation that is reasonable and consistent with the *specification*. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969) (emphasis added); see also *In re Morris*, 127 F.3d 1048, 1054-55, 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997); see also M.P.E.P. §§ 608.01(o)

and 2111. Indeed, the specification is “the primary basis for construing the claims.” *See Phillips v. AWH Corp.*, No. 03-1269, -1286, at 13-16 (Fed. Cir. July 12, 2005) (*en banc*). One should rely *heavily* on the written description for guidance as to the meaning of the claims. *See id.*

Second, interpretation of the claims must also be consistent with the interpretation that *one of ordinary skill in the art* would reach. *See In re Cortright*, 165 F.3d 1353, 1359, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); M.P.E.P. § 2111. “The inquiry into how a person of ordinary skill in the art understands a claim term provides an objective baseline from which to begin claim interpretation.” *See Collegenet, Inc. v. ApplyYourself, Inc.*, No. 04-1202, -1222, 1251, at 8-9 (Fed. Cir. August 2, 2005) (quoting *Phillips*, No. 03-1269, -1286, at 16). The Federal Circuit has made clear that derivation of a claim term must be based on “usage in the ordinary and accustomed meaning of the words amongst artisans of ordinary skill in the relevant art.” *See id.*

Third, anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, the Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Fourth, if the Examiner relies on a theory of inherency, the extrinsic evidence must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q.2d 1949 (Fed. Cir. 1999) (Emphasis Added). The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. *Id.* In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The Examiner, in presenting the inherency argument, bears the evidentiary burden and must adequately satisfy this burden. *See id.* Regarding functional limitations, the Examiner must evaluate and consider the functional limitation, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. *See* M.P.E.P. § 2173.05(g); *In re Swinehart*, 169 U.S.P.Q. 226, 229 (C.C.P.A. 1971); *In re Schreiber*, 44 U.S.P.Q.2d 1429, 1432 (Fed. Cir. 1997). If the Examiner believes the functional limitation to be inherent in the cited reference, then the Examiner “must provide some evidence or scientific reasoning to establish the reasonableness of the examiner’s belief that the functional limitation is an inherent characteristic of the prior art.” *Ex parte Skinner*, 2 U.S.P.Q.2d 1788, 1789 (Bd. Pat. App. & Inter. 1986).

***Claim Features of Independent Claim 75 Omitted from Cited Reference***

The Applicants submit that the rejection of independent claim 75 is improper because the prior art reference that is used to reject the claim does not disclose each and every element recited by the claim. For example, independent claim 75 recites “[a] system, comprising an integral automotive linkage configured to mount within an automobile to link two or more elements integrally together in an assembly.” (Emphasis added). Hence, as one of ordinary skill in the art would appreciate, automotive linkages may be configured

to integrally link two or more mechanical constituents within an automobile. As such, an integral automotive part may itself be a constituent of the automobile.

In contrast, the cited reference teaches “a multiple bit screwdriver” having a plurality of tool bits. See Hwang, Abstract. Accordingly, Hwang does not disclose an “integral automotive linkage configured to mount within an automobile to link two or more elements integrally together in an assembly,” as recited by claim 75. The Applicants submit that a screwdriver is clearly not a linkage, as understood by one of ordinary skill in the art. At best, a screwdriver may be held by a person’s hand to temporarily and intermittently apply a certain amount of torque to a screw or bolt, thereby threading or unthreading the screw or bolt. Although the screwdriver temporarily interfaces with a surface (e.g., groove), the screwdriver would generally fall without a person’s hand to guide and support the motion of the screwdriver. Thus, the screwdriver can never function as a linkage, much less an automobile linkage as set forth in claim 75. Furthermore, the Hwang reference fails to teach or suggest that the screwdriver may be configured to be “an integral automotive linkage configured to mount within an automobile to link two or more elements integrally together in an assembly,” as recited by claim 75.

In view of these deficiencies among others, the cited reference cannot anticipate independent claim 75 and its dependent claims.

***Claim Features of Independent Claim 83 Omitted from Cited Reference***

The Applicants submit that the rejection of independent claim 83 is improper because the prior art reference that is used to reject the claim does not disclose each and every element recited by the claim. For example, independent claim 83 recites an elongated automotive linkage “configured to mount integrally within an automobile.” (Emphasis added).

In contrast, Hwang fails to disclose or suggests an automotive linkage configured to mount integrally within an automobile, as recited by independent claim 83. A screwdriver can be used to assemble an automobile with a person's assistance (e.g., hand operated), yet it cannot be configured to mount integrally within an automobile. Further, there is no disclosure in Hwang suggesting that a screwdriver would or could be mounted integrally within an automobile.

In view of these deficiencies among others, the cited reference cannot anticipate independent claim 83 and its dependent claims.

***Claim Features of Independent Claim 88 Omitted from Cited Reference***

As discussed above, the Applicants respectfully request reinstatement and consideration of independent claim 88 and its dependent claims. Again, independent claim 88 is generic and should not be withdrawn. The Applicants submit the Hwang reference does not disclose each and every element recited by the claim. For example, independent claim 88 recites "a plurality of elongated hollow linkages." (Emphasis added).

In contrast, the Hwang reference fails to teach a linkage, but simply discloses a screwdriver. The Applicants submit that a screwdriver is clearly not a linkage, as understood by one of ordinary skill in the art. At best, a screwdriver may be held by a person's hand to temporarily and intermittently apply a certain amount of torque to a screw or bolt, thereby threading or unthreading the screw or bolt. Although the screwdriver temporarily interfaces with a surface (e.g., groove), the screwdriver would generally fall without a person's hand to guide and support the motion of the screwdriver. Thus, the screwdriver can never function as a linkage as set forth in claim 88. Accordingly, the Hwang reference fails to teach or suggest that the screwdriver may be configured to be a hollow linkage, as recited by independent claim 88.

In view of these deficiencies among others, the cited reference cannot anticipate independent claim 88 and its dependent claims.

***Claim Features of Independent Claim 95 Omitted from Cited Reference***

The Applicants submit that the rejection of independent claim 95 is improper because the prior art reference that is used to reject the claim does not disclose each and every element recited by the claim. For example, independent claim 95 recites a family of linkage joints configured to “mount integrally with a component of a system of interconnected machine elements.” (Emphasis added).

In contrast, the Hwang reference fails to disclose or suggest any linkage joints configured to mount integrally with a component of a system of interconnected machine elements, as recited by claim 95. At best, Hwang discloses a tool bit 2 configured to be fitted to end portion 12. *See* Hwang, Fig. 1. Thus, Hwang simply discloses a screwdriver configured to be held by a person’s hand to temporarily and intermittently apply a certain amount of torque to a screw or bolt, thereby threading or unthreading the screw or bolt. Although the screwdriver temporarily interfaces with a surface (e.g., groove), the screwdriver would generally fall without a person’s hand to guide and support the motion of the screwdriver. Thus, the screwdriver can never function as a linkage as set forth in claim 95. Furthermore, the Hwang reference fails to teach or suggest that the screwdriver may be configured to mount integrally with a component of a system of interconnected machine elements, as recited by independent claim 95.

For at least these reasons, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 102.

***Claim Features of Dependent Claims, 80, 84 and 87 Omitted from Cited Reference***

Aside from being dependent on an allowable base claim, Applicants submit that the Examiner's rejection of dependent claims 80, 84, and 87 is improper since the subject matter recited by these claims is clearly not disclosed or suggested by the Hwang reference.

For example, the Examiner rejected dependent claim 80, specifically pointing to bit portion 20 in Fig.1 of Hwang as the claimed ball joint. *See* Office Action, page 3. Applicants submit that the bit portion 20 is clearly not a ball joint, but rather the bit portion 20 is simply a screwdriver tip or tool tip having a shaft. The bit portion 20 of Fig. 1 includes a conical shaped tip, which is not equivalent to or suggestive of the claimed ball joint. In other words, the conical-shaped geometry is not equivalent to a ball-shaped geometry, and the function of a tool tip is not equivalent to a joint.

The Examiner further asserted that Fig. 1 of Hwang discloses a ball joint, or a polygonal receptacle joint, or a circular receptacle joint, or a square receptacle joint, or a hook-shaped joint, or a bushing and grommet joint, or a combination thereof, as recited by dependent claim 84. *See* Office Action, page 4. Applicants stress that Fig. 1 of Hwang simply does not depict any of the above elements. Again, Applicants note that the bit portion 20 is simply a screwdriver tip or tool tip. The geometries and functions of the disclosed bit portions 20 are not equivalent or remotely suggestive of the claimed joints of claim 84.

Further, the Examiner asserted without any support that the Hwang reference discloses an elongated automotive linkage and family of joints which comprise a family of automotive suspension or steering linkages as set forth in claim 87. *See* Office Action, page 4. Again, there is no disclosure or suggestion in Hwang of an elongated automotive linkage and family of joints, much less automotive linkages and joints which comprise a family of automotive suspension or steering linkages. The Applicants stress that one of

ordinary skill in the art would not equate or confuse the tool bit 20 of Hwang with a linkage as set forth in claim 87.

In light of the foregoing arguments Applicants submit that the Examiner has clearly failed to establish a *prima facie* case of anticipation with regard to dependent claims 80, 84 and 87 among others. Again, Applicants respectfully request the Examiner to withdraw the rejection of claims 75-87 and 95-98 under 35 U.S.C. § 102.

#### **New Claims**

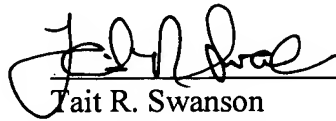
As noted above, the Applicants added new claims 99-101. These claims do not add any new matter and are believed to be in condition for allowance. The Hwang reference fails to teach or suggest the features recited in these claims. Accordingly, Applicants respectfully request allowance of claims 99-101.

#### **Conclusion**

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner wishes to resolve any issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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